

REGION 6 EXECUTIVE SUMMARY

TOPIC: 30 TAC Chapter 101 Emission Events Rule (Excess Emissions Rule,)

DATE: March 7, 2018

CONTACT: Rick Bartley/Alan Shar

PURPOSE/ACTION NEEDED: Informational

BACKGROUND: The 30 TAC Chapter 101 rules concerning emissions during startup, shutdown, and upsets were included in original Texas SIP, and approved by EPA in 1972. EPA's last SIP concerning Emission Events Rule was a partial approval/partial disapproval in 2010 that was upheld by the 5th Circuit.

CURRENT STATUS

On June 12, 2015 EPA published the final national rulemaking action finding certain SIP provisions that allow sources to assert affirmative defenses for excess emissions during upsets 101.222(b), unplanned events 101.222(c) and with respect to opacity limits 101.222(d), and unplanned events with respect to opacity limits 101.222(e) as substantially inadequate. The deadline for Texas to submit its corrective SIP revision to EPA was November 22, 2016. Texas challenged EPA's SIP Call in 5th Circuit; DOJ has filed motion to dismiss or transfer the case to DC Circuit. Texas submitted a SIP revision that doesn't remove the affirmative defense until 2 years after the final court ruling and all appeals are exhausted.

COMMUNITY CONCERNS: Emission events affect the fence line communities.

What's Next: Absent of a resolution on national SSM policy the "Pens-down" status remains in place, while Texas rules continue to adopt affirmative defense approach.

RECOMMENDATIONS: